

MOBILE HOMES (PITCH FEES) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Mobile Homes (Pitch Fees) Bill as brought from the House of Commons on 21 November 2022 (HL Bill 72).

- These Explanatory Notes have been prepared by the Department for Levelling Up, Housing and Communities with the consent of Lord Udney-Lister in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

Table of Contents

Subject	Page of these Notes
Overview of the Bill	2
Policy background	2
Consultation	2
Legal background	3
Territorial extent and application	4
Commentary on provisions of Bill	5
Clause 1: Pitch fee changes in England: link to the consumer prices index	5
Clause 2: Application and other provision	5
Clause 3: Extent, commencement and short title	6
Commencement	7
Financial implications of the Bill	7
Parliamentary approval for financial costs or for charges imposed	7
Compatibility with the European Convention on Human Rights	7
Related documents	8
Annex A – Territorial extent and application in the United Kingdom	9

Overview of the Bill

- 1 The Mobile Homes (Pitch Fees) Bill 2022 (the Bill) amends the Mobile Homes Act 1983 to change the pitch fee review inflationary index which is used by site owners to increase the fees paid by mobile home owners on their site from the Retail Prices Index (RPI) to the Consumer Prices Index (CPI).
- 2 The change is a long-standing Government commitment and is designed to improve fairness. CPI is generally lower than RPI, which will provide a cost saving to mobile homeowners, and the designation of RPI as a national statistic is no longer used by the UK Statistics Authority.
- 3 The Bill will:
 - change the inflationary index for annual pitch fee reviews from RPI to CPI;
 - apply CPI to all pitch fee reviews where the pitch fee review notice is served on or after the day that the Act comes into force.

Policy background

- 4 A mobile (park) home owner (resident) pays the site owner a pitch fee for the right to occupy a pitch on the site. The Mobile Homes Act 1983 (the 1983 Act) defines the costs that may be included in the pitch fee. Pitch fees can be reviewed annually. This allows site owners to recover increases in the costs within the pitch fee due to inflation. There is a presumption that any increase will be no more than the inflation index defined in the 1983 Act. The inflation index is currently defined as RPI.
- 5 From April 2011 the Government adopted CPI as the inflation rate for the indexation of benefits, tax credits and public service pensions as a more appropriate measure which was consistent with the measure of inflation used by the Bank of England¹. In 2013, the designation of RPI as a national statistic was cancelled by the UK Statistics Authority. As the RPI rate is generally higher than CPI, mobile home owners, the majority of whom are elderly, became increasingly concerned that their incomes which generally increase by CPI, would not keep pace with the rise in the pitch fees.

Consultation

- 6 In November 2017 the government published a two-part call for evidence² to review the legislation governing the park homes sector. Part 2 included a review of the appropriateness of using RPI in annual pitch fee reviews.
- 7 Having considered the evidence, including concerns around affordability for both mobile home owners and site owners, the Government concluded that CPI is the most appropriate

1 Written Ministerial Statement, 8 July 2010 The Minister of State, Department for Work and Pensions
<https://publications.parliament.uk/pa/cm201011/cmhansrd/cm100708/wmstext/100708m0001.htm#10070869000014>

2 "Review of park homes legislation: call for evidence part 1"
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/608520/Park_homes_call_for_evidence_Part_1.pdf

"Review of park homes legislation: call for evidence part 2" <https://www.gov.uk/government/consultations/review-of-park-homes-legislation-call-for-evidence-part-2>

inflationary index. In its response³ to the call for evidence, the Government stated that it would introduce legislation to change the pitch fee review inflationary index from RPI to CPI, when parliamentary time allowed.

- 8 Although the call for evidence focused on the issues in relation to privately run park home sites, the arguments for changing the pitch fee review inflationary index to CPI in relation to permanent pitches on local authority Gypsy and Traveller sites are the same. It was notable that, in their response to the call for evidence in relation to park homes, local authorities supported the change.

Legal background

- 9 The main legislation that governs the mobile homes sector is:
- The Mobile Homes Act 1983 (the 1983 Act) - This governs the pitch agreement between the site owner and the resident.
 - The Caravan Sites and Control of Development Act 1960 - This deals with local authority licensing and control of mobile homes sites.
 - The Caravan Sites Act 1968 - This concerns the protection of occupiers against eviction and harassment.
- 10 The 1983 Act governs agreements affecting mobile homes (also known as park homes) on pitches on both privately managed and Local Authority run sites. The agreement is between the resident and a site owner. The site owner may charge the resident a pitch fee in exchange for the right to station a mobile home on their land.
- 11 All pitch agreements include a set of statutory implied terms, which may not be excluded from the pitch agreement. The implied terms include those that set out how often the pitch fee can be reviewed and the process for doing so.
- 12 The procedures for changing a pitch fee are set out at paragraphs 16 and 17 of Chapter 2 and paragraphs 14 and 15 of Chapter 4 of Part 1 of Schedule 1 to the 1983 Act. The first step is for residents to receive at least 28 days' notice of the proposed changes. If the changes are agreed between the site owner and residents then the new fee goes into effect from the review date. If changes cannot be agreed the parties can apply to the First-tier Tribunal and the existing pitch fee remains in effect until the Tribunal makes a decision. If there is a change it is backdated to the review date (but payment of the difference doesn't become due until 28 days after the decision).
- 13 Under paragraph 20 of Chapter 2 and paragraph 18 of Chapter 4, there is a presumption that the pitch fee will increase (or decrease) by a percentage that is no more than the change in RPI in the relevant 12-month period, unless that would be unreasonable having particular regard to the factors set out in paragraph 18(1) of Chapter 2 or paragraph 16(1) of Chapter 4 (as applicable).

³ Review of park homes legislation: call for evidence - part 1 and 2 Government response
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/749771/Park_homes_Review_Government_response.pdf
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/749771/Park_homes_Review_Government_response.pdf

Territorial extent and application

- 14 The Bill extends to England and Wales only. It does not alter the legal position in relation to Wales. The provisions in the Act apply in relation to England only.
- 15 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Clause 1: Pitch fee changes in England: link to the consumer prices index

- 16 This clause amends Part 1 of Schedule 1 of the 1983 Act to change the inflationary index applied in the calculation of a new pitch fee at the yearly review.
- a. Paragraph (1) states that Part 1 of Schedule 1, which relates to the terms implied in pitch agreements, are to be amended as set out in the following paragraphs.
 - b. Paragraph (2) amends paragraph 20(A1) of Chapter 2⁴ by substituting CPI for RPI for the purposes of the presumed limit on increases (and decreases) in the pitch fee at the annual review. It also amends paragraph 25A(1)(b), which relates to the pitch fee review form, by changing references to RPI in the form to CPI. In addition, it amends paragraph 29 by inserting a definition of CPI and removing the definition of RPI. This will change the inflation rate that the owner of a private residential mobile (park home) site uses to increase the pitch fee paid by the resident to the CPI rate published by the Office for National Statistics.
 - c. Paragraph (3) amends Chapter 4⁵, which relates to permanent pitches on Gypsy and Traveller sites owned by local authorities, by changing RPI to CPI in paragraph 18(1) and replacing the definition of RPI with a definition of CPI in paragraph 27. This mirrors the change to CPI for private site owners, so that local authorities will also use CPI to calculate new pitch fees for residents who have agreements to live permanently on Gypsy and Traveller sites.

Clause 2: Application and other provision

- 17 This clause sets out how the change to CPI will affect the calculation of new pitch fees.
- a. Paragraph (1) provides that CPI will be used in the calculation where the pitch fee review notice is served on or after the day the Act comes into force. This means that CPI will apply to new pitch fee increases for all mobile home owners whose pitch fee review form is served on or after the day the Act comes into force, no matter when they bought their home.
 - b. Paragraph (2) provides that where the First-tier Tribunal is satisfied that a site owner has included an amount to compensate them for the financial loss arising from the RPI/CPI change, whether real or anticipated, it will be required by law to deem the amount to be unreasonable. This provision makes it clear that site owners cannot pass the difference between the RPI and CPI increase on to mobile home owners. In a dispute about costs included in the pitch fee, where the First-tier Tribunal accepts evidence that sums relate to the change to CPI, mobile home owners will not have to pay them and the Tribunal will remove the relevant amount from the pitch fee.
 - c. Paragraph (3) defines the terms used in clause 2 as:
 - i. Paragraph (3)(a) an “agreement” is an agreement to which the Mobile Homes Act 1983⁶ applies which entitles a person to station their mobile home on a protected site and to occupy it as their only or main residence.

⁴ Mobile Homes Act, Part 1, Schedule 1, Chapter 2
<https://www.legislation.gov.uk/ukpga/1983/34/schedule/1/part/1/chapter/2>

⁵ Mobile Homes Act, Part 1, Schedule 1, Chapter 4
<https://www.legislation.gov.uk/ukpga/1983/34/schedule/1/part/1/chapter/4>

⁶ Mobile Homes Act 1983, Section 1(1)(a) and (b) <https://www.legislation.gov.uk/ukpga/1983/34/section/1>

- ii. Paragraph (3)(b) a “fee review” is as under Chapter 2 or Chapter 4 of Part 1 of Schedule 1 of the Mobile Homes Act 1983 which sets out the obligations and rights of site owners and mobile home owners, the processes, and role of the court or tribunal in relation to changing the amount pitch fee.
- iii. Paragraph (3)(c)(i) a “pre-commencement” fee review means the pitch fee review notice form is served by the site owner before the Act comes into force. (3)(c)(ii) sets out that a “post-commencement” review means the pitch fee review notice was served on or after the day the Act comes into force.
- iv. Paragraph (3)(d)(i) in relation to a pitch fee review under Chapter 2 which relates to privately owned mobile homes sites, an “associated written notice” means a pitch fee review notice form served by the site owner in accordance with Chapter 2, paragraph 17. A pitch fee review notice must comply with the requirements for the form and content set out in the Mobile Homes Act 1983, and be served by the site owner a minimum of 28 days before the date of the pitch fee review, for the notice of proposed new pitch fee to be valid. The prescribed form for pitch fee reviews under paragraph 25A(1) of Chapter 2 of Part 1 of Schedule 1 of the 1983 Act will be amended by secondary legislation so that it refers to CPI instead of RPI. When site owners issue the pitch fee review notice on or after the day the Act comes into force they will need to use the updated prescribed form for notice to be valid.
- v. Paragraph (3)(d)(ii) in relation to a pitch fee review under Chapter 4 which relates to agreements to station mobile homes on permanent pitches on local authority run Gypsy and Traveller sites, an “associated written notice” means a pitch fee review notice form served in accordance with Chapter 4, paragraph 15 by local authorities.

Clause 3: Extent, commencement and short title

- 18 This clause sets out where the legislation applies, when it will come into force and what the Act is called.
- a. Paragraph (1) confirms that the legislation extends to England and Wales only.
 - b. Paragraph (2) provides that the Act will come into force two months after the bill receives Royal Assent.
 - c. Paragraph (3) provides that when referring to the Act, it may be cited as the Mobile Homes (Pitch Fees) Act 2023.

Commencement

- 19 The Act is to come into force two months after the date of Royal Assent.

Financial implications of the Bill

- 20 An Impact Assessment has been prepared for the Bill and covers the effects of the Bill on park home site owners and residents. The change from RPI to CPI will apply to all agreements, whether entered into before or after the commencement of the Act.
- 21 The overall effect of this measure is a transfer from site owner to resident as the effect on site owners' costs is matched by the benefit to residents of a lower annual inflation increase.
- 22 The total annualised cost to site owners of using CPI rather than RPI is around £7,400,000 per year, calculated over the next 10 years. This works out at an average cost to site owners per site of approximately £4,040 per year over ten years, and a saving per home of around £74 per year over ten years to residents. Further information is provided in the impact assessment.
- 23 Residents, many of whom are retired, elderly or vulnerable with incomes typically rising by CPI, will benefit in terms of their finances which would lead to improvements in their living standards.

Parliamentary approval for financial costs or for charges imposed

- 24 The Bill does not require either a money resolution or a ways and means resolution as the bill will not require new public expenditure, charges or taxation.

Compatibility with the European Convention on Human Rights

- 25 This is a Private Member's Bill and the Minister is not required to give a statement of compatibility with the [Human Rights Act 1998](#)⁷ under [section 19\(1\)\(a\)](#)⁸ of that Act.
- 26 The Department for Levelling Up, Housing and Communities has nevertheless considered the question of compatibility and has concluded that the Bill is compatible with the [ECHR](#)⁹.
- 27 The Department's assessment is that the Bill engages Article 1 of the First Protocol (right to peaceful enjoyment of possessions) because the change to the inflationary index used to set a presumptive cap on site owners' ability to increase pitch fees may amount to an interference with the site owners' property. However, as the change is intended to ensure fairness between the rights of mobile home owners and site owners in relation to pitch fee reviews, any interference is in pursuit of a legitimate aim and considered to be proportionate for the following reasons:

7 Human Rights Act 1998 <https://www.legislation.gov.uk/ukpga/1998/42/contents>

8 HRA 1998, section 19(1)(a) <https://www.legislation.gov.uk/ukpga/1998/42/section/19>

9 European Convention on Human Rights https://www.echr.coe.int/Documents/Convention_ENG.pdf

- a. The Government committed to making this change in its consultation response referred to at paragraph 7 above, and site owners will have had sufficient time to prepare for the change.
- b. The change will protect the predominantly elderly population making up mobile home owners from significant pitch fee increases and return the position to one where the same general inflation index is applied to both site owners' pitch fee increases and residents' incomes (see paragraph 5 above and footnote 1).
- c. The benefit to mobile home owners of the change to CPI as a cap on annual pitch fee increases outweighs the detriment to site owners.
- d. To maintain RPI for the purposes of pitch reviews would risk increasing deprivation and poverty within a vulnerable group and, consequently, the burden on the state.

Related documents

28 The following documents are relevant to the Bill and can be read at the stated locations:

- Impact Assessment – <https://publications.parliament.uk/pa/bills/cbill/58-03/0090/ImpactAssessment-MobileHomesPMB.pdf>

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	No	N/A	No	N/A	No	N/A
Clause 2	Yes	No	N/A	No	N/A	No	N/A
Clause 3	Yes	No	N/A	No	N/A	No	N/A

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